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October 10, 2018

By ECF

Hon. Nicholas G. Garaufis
United States District Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Starke v. SquareTrade, Inc.*, 16-cv-07036 (NGG) (SJB)

Dear Judge Garaufis,

We are co-counsel to Plaintiff Adam J. Starke (“Starke”) and write regarding the scheduled motion by Plaintiff to lift the stay that is currently in place pending the Second Circuit appeal that is *sub judice*.

Starke’s anticipated motion was based, in part, on his concern regarding the impact of a proposed preliminary approval order submitted in a copycat litigation in the Southern District of Iowa (*Swinton et al. v. SquareTrade, Inc.*, No. 4:18-cv-144 (S.D. Iowa) (SMR) (SBJ) (the “Swinton Action”)). We perceived a risk that the proposed order, which contained a proposed injunction against “commenc[ing] or prosecut[ing] . . . any action . . . asserting any of the Released Claims,” would be used by defendant to seek to prevent the issuance of a ruling by the Second Circuit.

During the recent pre-motion conference, counsel for defendant represented that it would not seek to halt the Second Circuit’s consideration of its pending appeal. Based on this representation that SquareTrade will not request that the Second Circuit delay, withhold, or otherwise decline to rule on SquareTrade’s appeal due to the pendency of the proposed settlement in the Swinton Action, Starke will refrain from making the contemplated motion at this point.

Another purpose of our motion to lift the stay was to avoid prejudice in that Starke is unable to currently amend his complaint to immediately add any additional plaintiffs. We intend to reach out to defendant to obtain its consent to such an amendment. In the event that defendant does not consent, we intend to simply file such actions as new lawsuits rather than burden the court with the motion.

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Accordingly, at this time, Plaintiff has decided not to proceed with the motion to lift the stay and will instead await the Second Circuit's upcoming decision.

Respectfully submitted,



Matthew Insley-Pruitt

cc: Counsel of Record via ECF